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TO THE HOUSE CRIMINAL JUSTICE COMMITTEE RE S.B. 291

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I thank the Committee for this opportunity to testify on S.B. 291. I am the director of the Michigan Innocence Clinic at the University of Michigan Law School, which began operations in January 2009. So far, the Clinic has helped free ten wrongfully convicted men and three women by finding and presenting new evidence of actual innocence. You will hear from one of those exonerees, Julie Baumer, in a few minutes. I also would like to introduce Marla Mitchell-Cichon, the director of the Cooley Innocence Project, who also has exonerees here today.

According to the National Registry of Exonerations, there have been 66 people wrongfully convicted and exonerated in Michigan since 1990, which works out to between two and three exonerations per year, on average. The most recent came this summer when Wayne County Prosecutor Kym Worthy moved to vacate the conviction of Davontae Sanford, who had been arrested when he was arrested as a 14-year-old boy and convicted of a quadruple murder in Detroit. The real killer, Vincent Smothers, a professional hitman, eventually admitted that he and an adult accomplice had committed the murders, and he led the police to one of the two guns used in the killings.

Thirty states, the federal government, and the District of Columbia have recognized the moral obligation to compensate wrongfully convicted people for the years stolen from their lives by failures of the criminal justice system. SB 291 would bring Michigan into line with those other states.

The bill does not guarantee compensation to anyone. To even be eligible to file a claim in the Court of Claims, an exoneree would have to show that he or she served time in state prison for a conviction that was overturned because of new evidence of actual innocence and that the charge was then dismissed or he or she was acquitted. The person would also have to show that he or she wasn't concurrently in prison for any other crime. And if the exoneree happens to be one of the lucky few who had filed won a civil lawsuit against someone to blame for their wrongful conviction, then the compensation award must be offset by the amount of the lawsuit proceeds meaning that they probably cannot file a claim at all. Because of the various exclusions in SB 291, only about half of the exonerees listed on the National Registry of Exonerations would be eligible to file a claim at all. But even if the exoneree is eligible to file a claim, he or still must prove that he or she is, in fact, completely innocent of the crime in order to be entitled to compensation.

If an exoneree can meet the rigorous requirements of SB 291, I can think of no just reason why the people of Michigan, in whose name the exoneree was imprisoned, should not compensate the person. Whether the person was exonerated by DNA evidence, as Ken Wyniemko was, by advances in medical or other sciences, such as Julie Baumer, David Gavitt, or Victor Caminata were, by evidence pointing to a different perpetrator that had been withheld by the police, as in the case of Dwayne Provience, or by the discovery that a witness who testified at trial gave false testimony, as in the recent case of Quentin Carter, the fact remains that we, the People of the State of Michigan, sent someone to prison for a crime they didn't commit. That person needs to be made whole.

I thank the Committee for its attention.